

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

IN RE: TESTOSTERONE REPLACEMENT  
THERAPY PRODUCTS LIABILITY  
LITIGATION

Case No. 1:14-cv-1748

MDL No. 2545

Hon. Matthew F. Kennelly

THIS DOCUMENT RELATES TO ALL  
CASES

**CASE MANAGEMENT ORDER NO. 108**

**(Timeline for Pre-Trial Materials for CMO 75 and CMO 87 Wave 1 and 2 Cases)**

The Court enters the following schedule of dates to apply to the cases selected for trial pursuant to CMO 87 (as it applies to Wave 1 and Wave 2 only) and CMO 75. The parties should note that Section II of this order, concerning CMO 87 Wave 2 cases, modifies the summary judgment and *Daubert* motion briefing schedule set in CMO 87 to ensure that Wave 2 cases that survive summary judgment will be ready for trial by no later than January 14, 2019. The Court reserves the right to advance that or any other part of the schedule set in this order to ensure that a given case or cases are ready for trial earlier than the dates contemplated in this order.

**I. CMO 87 (Wave 1 Cases) – Timeline for Submission of Pretrial Materials**

1. Motions *in limine* are to be filed by August 22, 2018.
2. Oppositions to motions *in limine* are to be filed by August 29, 2018.
3. The final Pretrial Order, including witness lists, exhibit lists with objections, proposed jury instructions and *voir dire* questions are to be filed by September 14, 2018.
  - a. The parties are to exchange proposals for the Pretrial Order, witness lists, exhibit lists (copies of exhibits need not be exchanged, but upon request any un-Bates numbered and not previously provided exhibit will be produced within 2 days), proposed jury instructions and *voir dire* questions no later than August 31, 2018.

- b. Each side is to respond to the other side's proposal for the Pretrial Order, with objections to the other party's exhibit list, and meet and confer regarding proposed jury instructions and *voir dire* question no later than September 7, 2018.
- 4. Deposition designations and objections/responses are to be filed with the Court no later than September 21, 2018.
  - a. Each party's deposition designations are to be served on the opposing party no later than September 7, 2018.
  - b. The parties are to meet and confer regarding deposition designations to attempt to avoid overlapping affirmative designations by September 10, 2018.
  - c. Objections to deposition designations and counter-designations, if any, are to be served on the opposing party by September 14, 2018.
  - d. Responses to objections and objections to counter-designations are to be served on the opposing party by September 17, 2018.
  - e. The parties are encouraged and directed to submit a common set of deposition designations and objections for the Wave 1 cases for witnesses whose depositions will be used in more than one case.

## **II. CMO 87 (Wave 2 Cases ) – Timeline for Submission of Pretrial Materials**

- 1. For CMO 87 Wave 2 cases, the summary judgment and *Daubert* motion briefing schedule set forth in CMO 87 is modified. Any motion for summary judgment or partial summary judgment or seeking to challenge expert testimony pursuant to *Daubert* remains due by no later than November 16, 2018. Responses shall be filed by no later than December 7, 2018. Replies shall be filed by no later than December 14, 2018.
- 2. Motions *in limine* are to be filed by December 21, 2018. The Court notes that this due date is highly likely to be before the Court makes rulings on any summary judgment and *Daubert* motions in the CMO 87 Wave 2 cases.
- 3. Oppositions to motions *in limine* are to be filed by January 3, 2019.
- 4. The final Pretrial Order, including witness lists, exhibit lists with objections, proposed jury instructions and *voir dire* questions are to be filed by January 7, 2019.
  - a. The parties are to exchange proposals for the Pretrial Order, witness lists, exhibit lists (copies of exhibits need not be exchanged, but upon request

any un-Bates numbered and not previously provided exhibits will be produced within 2 days), proposed jury instructions and *voir dire* questions no later than December 24, 2019.

- b. Each side is to respond to the other side's proposal for the Pretrial Order, with objections to the other party's exhibit list, and meet and confer regarding proposed jury instructions and *voir dire* questions no later than December 31, 2019.
5. Deposition designations and objections/responses are to be filed with the Court no later than January 7, 2019. The parties are directed to work out a schedule for exchanging deposition designations, objections, and responses consistent with the filing due date of January 7, 2019. The parties are encouraged and directed to submit a common set of deposition designations and objections for the Wave 2 cases for witnesses whose depositions will be used in more than one case.

### **III. CMO 75 – Timeline for Submission of Pretrial Materials<sup>1</sup>**

1. Motions *in limine* are to be filed by January 7, 2019.
2. Oppositions to motions *in limine* are to be filed by January 14, 2019.
3. The final Pretrial Order, including witness lists, exhibit lists with objections, proposed jury instructions and *voir dire* questions are to be filed by January 23, 2019.
  - a. The parties are to exchange proposals for the Pretrial Order, witness lists, exhibit lists (copies of exhibits need not be exchanged, but upon request any un-Bates numbered and not previously provided exhibit will be produced within 2 days), proposed jury instructions and *voir dire* questions no later than January 9, 2019.
  - b. Each side is to respond to the other side's proposal for the Pretrial Order, with objections to the other party's exhibit list, and meet and confer regarding proposed jury instructions and *voir dire* question no later than January 16, 2019.
4. Deposition designations and objections/responses are to be filed with the Court no later than January 28, 2019.
  - a. Each party's deposition designations are to be served on the opposing party no later than January 14, 2019.

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<sup>1</sup> The Court notes that the parties proposed a pretrial schedule for CMO 75 cases based on the Court's suggestion that all of the selected cases will be eligible for trial without being winnowed down. If the Court determines that it wants a specific CMO 75 case set for trial on January 7, 2019, the parties will provide a pretrial schedule separately for that case.

- b. The parties are to meet and confer regarding deposition designations to attempt to avoid overlapping affirmative designations by January 17, 2019.
- c. Objections to deposition designations and counter-designations, if any, are to be served on the opposing party by January 21, 2019.
- d. Responses to objections and objections to counter-designations are to be served on the opposing party by January 24, 2019.

**IT IS SO ORDERED.**

Date: March 21, 2018

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s/ Matthew F. Kennelly  
MATTHEW F. KENNELLY  
United States District Judge